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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,752	12/28/2000	Taizo Akimoto	Q61244	4934
7590 10/22/2003				
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Washington, DC 20037-3202				
EXAMINER				
GOLDBERG, JEANNE ANNE				
ART UNIT		PAPER NUMBER		
1634				

DATE MAILED: 10/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/749,752

Applicant(s)

AKIMOTO, TAIZO

Examiner

Jeanine A Goldberg

Art Unit

1634

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY (check either a) or b)

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: NONE.Claim(s) objected to: NONE.Claim(s) rejected: 6-17.Claim(s) withdrawn from consideration: NONE.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: The response argues that the claims are not anticipated by the cited art.

First, with respect to Zeleny, the response argues that Zeleny does not disclose the feature of "a means for obtaining information concerning the positions of the probes to which the target substance has bound and simultaneously detecting the management information attached to the test piece." This argument has been thoroughly reviewed, but is not found persuasive because Zeleny teaches a means, namely a scanner, for scanning and obtaining information about probes and management information simultaneously. While the response argues that the system responds which means the means is no longer simultaneous. The teachings of Zeleny meet the limitations of the instant claims. The means is the scanner, the scanner only scans the chip once, thus, this is considered to obtain information simultaneously, no further action is required by the operator. Moreover, the scanner is capable of the function, thus the mean is anticipated. Moreover, the response by the system for opening file folders does not preclude the simultaneousness of the scan. The claim does not require that the same marker is used for printing the ID information and marking the target substance.

Claim 13 and 15 are extremely broad and encompassed by the teachings of Zeleny.
For the reasons above, claim 17 is also anticipated.

Second, with respect to Noble, the arguments appear persuasive.

Third, with respect to Pertunen, the arguments that the excerpt does not disclose the claimed features. The response asserts that the excerpt does not relate to detecting management information at all. This argument has been thoroughly reviewed, but is not found persuasive because Pertunen teaches the signal received from the process includes an identification code. This is management information. Management information is not defined by the claims. Furthermore, the means is a means which has the function. The signal sent to the database may be the means, whether or not the cited art explicitly states that the function may be performed.



BJ FORMAN, PH.D.
PRIMARY EXAMINER